

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRISTOPHER JOHNSON, :
: .
Plaintiff, : 19 Civ. 6480 (PMH)(LMS)
: .
- against - :
: .
TROOPER ANDREW McMORROW, TROOPER :
MARISA RODRIGUEZ, and JOHN DOES ## 1- :
10, :
: .
Defendants. :
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**PROPOSED
ORDER**

Whereas, Lexington Center for Recovery, Inc., 3 Corporate Drive, Peekskill, New York 10566 represents that it is a federally assisted alcohol and substance abuse treatment program which, pursuant to the Federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. Part 2, cannot be disclosed without the patient's written consent or Court order;

Whereas, the Court has determined that good cause exists to justify the disclosure of Plaintiff's records from Lexington Center for Recovery, Inc. to the Court for in-camera review in that there are no other available ways for the Court to obtain the information and the public interest and need for the disclosure outweigh the potential injury to Plaintiff, the physician-patient relationship, and the treatment services, in that Plaintiff has asserted a claim for intentional infliction of emotional distress and alleges emotional distress damages and his records from Lexington Center for Recovery, Inc. may contain information that would cast doubt upon that claim, and the concealment of such information would conflict with the truth-seeking purpose of litigation;

Whereas, the disclosure of Plaintiff's records from Lexington Center for Recovery, Inc. is limited only to the Court for in-camera review and, if the Court determines it necessary, to Plaintiff

and counsel for Defendants pursuant to the terms of the Court's Confidentiality and Protective Order, and which is essential to the Court's duty to manage this litigation in accordance with the Federal Rules of Civil Procedure and Federal law; and

Whereas, the disclosure of Plaintiff's records from Lexington Center for Recovery, Inc. is in connection with litigation in which Plaintiff has offered evidence that he has been treated by counselors from this rehabilitation program for one or more conditions involving mental anguish, anxiety, fear, and/or other emotional distress;

It is hereby ORDERED that Lexington Center for Recovery, Inc. produce attendance records, records of compliance, records of treatment, and counselor notes concerning Plaintiff's participation in its alcohol treatment and counseling programs.

SO ORDERED:

Dated: August 28, 2020

A handwritten signature in black ink that reads "Lisa Margaret Smith". The signature is fluid and cursive, with "Lisa" and "Margaret" stacked vertically and "Smith" written below them.

Hon. Lisa M. Smith, USMJ